

**DURHAM, NORTH CAROLINA  
MONDAY, DECEMBER 4, 2006  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Council Member Clement read a Resolution Memorializing George Watts Carr, Jr.

City Council Members made comments on the following events attended and special recognition of individuals and organizations: a member from Boy Scout Troop 45 who was in attendance working on his merit badge; 30<sup>th</sup> Anniversary of the Regulator Bookstore; 31<sup>st</sup> Anniversary of the Durham Symphony and three local artists who painted violins that were raffled off; Mayor Bell recipient of 1<sup>st</sup> annual leadership award from the NC Black Elected Officials organization; and Dr. John Hope Franklin.

Council Member Brown asked the City Manager to provide a report on the Durham Housing Authority [Fayette Place project] during the next cycle.

Mayor Bell asked the City Manager to recognize institutions that have been successful on the athletic field.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker requested that Consent Agenda #14 [HOME CHDO Grant Agreement with Rebuild Durham, Inc.] be referred back to the administration.

**MOTION** by Council Member Stith seconded by Council Member Woodard to accept the City Manager priority item was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items #20 [Design of Oval Drive Park Renovation Project] and #44 [Resolution on the Bill of Rights Defense] were pulled.

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**MOTION** by Council Member Stith seconded by Council Member Clement to approve the Consent Agenda as amended was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY JULY 1, 2006  
– JUNCTION ROAD**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt a resolution scheduling a public hearing for Monday, December 18, 2006 to receive citizens' comments concerning a voluntary petition for the following property to be annexed with a recommended effective date of December 31, 2006 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

FY2007-04 Junction Road

**Resolution #9415**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Council Member Stith seconded by Council Member Clement to approve City Council Minutes for the November 6, 2006 City Council Meeting; and

To approve City Council action taken at the October 19, 2006 City Council Work Session was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM BOARD OF ADJUSTMENT - APPOINTMENT**

**MOTION** by Council Member Stith seconded by Council Member Clement to appoint Paul Anthony Arena to the Durham Board of Adjustment as an Alternate Member with the term to expire on June 30, 2009 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: CABLE TV ADVISORY BOARD – RECEIPT AND ACCEPTANCE OF AN  
APPLICATION**

**December 4, 2006**

**MOTION** by Council Member Stith seconded by Council Member Clement to receive and accept an application for a citizen to fill one (1) vacancy on the Cable TV Advisory Board with the term to expire on October 31, 2008 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: BID REPORT – SEPTEMBER 2006**

**MOTION** by Council Member Stith seconded by Council Member Clement to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of September 2006 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Date:** October 11, 2006

**To:** Patrick W. Baker, City Manager  
**Through:** Wanda S. Page, Assistant City Manager  
Kenneth C. Pennoyer, Finance Director

**From:** Joseph W. Clark, Purchasing Manager

**Subject:** Bid Report – September 2006

**Recommendation**

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of **September 2006**.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid: KBOX IT Automation Software and Hardware**

Purpose of Bid: To provide the Technology Solutions Dept with KBOX hardware and software

Comments: NetSummit is the only authorized distributor in this region.

Opened: August 25, 2006

Bidders: NetSummit, Inc. \*\$19,379.50  
Greensboro, NC

\*Awarded based on: \_\_\_\_\_ Low Bid ☒ Other (See Comments)

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WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	5		# Black Males	1	20%
Total # Females	1	20%	# White Males	3	60%
Total # Males	4	80%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	20%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

2. **Bid:** **Furnish and install fire suppression systems on seven (7) refuse collection vehicles.**

Purpose of Bid:

Comments: \$5,861.00 per vehicle

Opened: August 15, 2006

Bidders:	Amick Equipment Company, Inc.	* \$41,031.90
	Lexington, SC	
	BFPE International	\$43,400.00
	Clayton, NC	

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	19		# Black Males	0	(0%)
Total # Females	3	16%	# White Males	16	(84%)
Total # Males	16	84%	# Other Males	0	(0%)
			# Black Females	0	(0%)
			# White Females	3	(16%)
			# Other Females	0	(0%)

The SDBE Data Base was used in the solicitation of bids for this item.

3. **Bid:** **Smith & Wesson Pistols**

Purpose of Bid: To provide the Police Department with .45 Smith & Wesson Pistols

Comments: 28 each @ \$596.40

Opened: September 6, 2006

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Bidders: Southern Public Safety Equipment \*\$16,699.20  
Greensboro, NC  
Lawmen's Safety \$17,151.40  
Raleigh, NC

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	10		# Black Males	1	10%
Total # Females	3	30%	# White Males	6	60%
Total # Males	7	70%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	20%
			# Other Females	1	10%

The SDBE Data Base was used in the solicitation of bids for this item.

**4. Bid: Ideal Color Scanner**

Purpose of Bid: To purchase a color scanner, software and maintenance for City/County Planning

Comments:

Opened: August 28, 2006

Bidders: Ideal Scanners & Systems \*\$22,856.00  
Rockville, MD  
Tereck Office \$28,743.00  
Durham, NC

\*Awarded based on: X Low Bid \_\_\_\_\_ Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	35		# Black Males	1	5%
Total # Females	10	15%	# White Males	17	45%
Total # Males	25	85%	# Other Males	7	20%
			# Black Females	0	0%
			# White Females	7	20%
			# Other Females	3	5%

The SDBE Data Base was used in the solicitation of bids for this item.

**5. Bid: Streaming Video Internet Services for the City Clerk's Office**

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Purpose of Bid: To provide the City Clerk's office with media manager software, hardware, maintenance, storage services and to include training.

Comments: This is a sole source purchase.

Opened: August 29, 2006

Bidders: Granicus, Inc. \*\$34,515.00  
San Francisco, CA

\*Awarded based on: \_\_\_\_\_ Low Bid X Other (See Comments)

WORKFORCE STATISTICS  
CORPORATION STATISTICS

Total Workforce	35		# Black Males	2	06%
Total # Females	8	23%	# White Males	9	26%
Total # Males	27	77%	# Other Males	16	46%
			# Black Females	0	0%
			# White Females	6	17%
			# Other Females	2	05%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (\*).

**SUBJECT: BIDS – POLICE VEHICLES - TERRY LABONTE CHEVROLET -  
UNIVERSITY FORD**

**MOTION** by Council Member Stith seconded by Council Member Clement to accept the bid from Terry Labonte Chevrolet, in the amount of \$600,864.00 for providing the City with 33 Front Wheel Drive Police Patrol Vehicles (Item No. 1);

To authorize the City Manager to enter into a contract with Terry Labonte Chevrolet, in the amount of \$600,864.00 for providing the City with 33 Front Wheel Drive Police Patrol Vehicles (Item No. 1);

To accept the bid from University Ford, in the amount of \$956,038.00 for providing the City with 6 Rear Wheel Drive Police Pursuit Vehicles (Item No. 2) and 40 Rear Wheel Drive Police Patrol Vehicles (Item No. 3);

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To authorize the City Manager to enter into a contract with University Ford, in the amount of \$956,038.00 for providing the City with 6 Rear Wheel Drive Police Pursuit Vehicles (Item No. 2) and 40 Rear Wheel Drive Police Patrol Vehicles (Item No. 3); and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: 2006 GENERAL OBLIGATION BONDS, SERIES A AND B, REPORT OF SALE**

**MOTION** by Council Member Stith seconded by Council Member Clement to accept the report of the sale of the 2006 General Obligation Bonds, Series A and B was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: SETTING PUBLIC HEARINGS FOR THE CONFIRMATION OF ASSESSMENT ROLLS - SEWER MAIN ON ARDMORE DRIVE - SEWER MAIN ON MARYWOOD DRIVE - WATER MAIN ON LONG LEAF DRIVE**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt resolutions setting public hearings for December 18, 2006, for the following assessment rolls was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Sewer Main on Ardmore Drive from the East Property Line of Tax Map 509-1-4 to the South Property Line of Tax Map 509-2-3B;

Sewer Main on Marywood Drive from Park Place to the East Property Line of Tax Map 773-1-5A; and

Water Main on Long Leaf Drive from Pine Valley Drive North to the North Property Line of Tax Map 825-1-39.

**SUBJECT: STREET ACCEPTANCE - LYONS FARM – PH I & II - TREYBURN I-8 – PHASE I - TREYBURN POINT – PHASE I – CHADSWORTH – SETTLERS MILL**

**MOTION** by Council Member Stith seconded by Council Member Clement to accept the streets on the list for maintenance by the City of Durham was approved at 7:28 p.m. by the following

**December 4, 2006**

vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Lyons Farm – PH I & II**

- 1) **Goldflower Drive** – from the north ditch line of Scott King Road to the centerline of Lyon Farm Drive (1,583') and
- 2) **Lacebark Lane** – from the centerline of Goldflower Drive north to the centerline of Goldflower Drive (1,268') and
- 3) **Littleleaf Lane** – from the centerline of Lacebark Lane to the centerline of Lyon Farm Drive (515') and
- 4) **Silverbell Court** – from the centerline of Lyon Tree Lane east thru the cul-de-sac (258') and
- 5) **Lyon Farm Drive** – from the centerline of Lyon Tree Lane north to the end of construction @ STA 21+12.28 (1,112') and
- 6) **Lyon Tree Lane** – from the north curb line of Scott King Road north thru the cul-de-sac (888') and
- 7) **Silver Pine Court** – from the centerline of Goldflower Drive north thru the cul-de-sac (620') and
- 8) **Silk Tree Lane** – from the centerline of Silver Pine Court west to the end of construction @ STA 12+21.34 (221'.)

**Treyburn I-8 – Phase I**

- 1) **Fairwoods Drive** – from the end of the existing Fairwoods Drive east to the centerline of Vintage Hill Parkway (680') and
- 2) **Amberglen Circle** – from the centerline of Fairwoods Drive south thru the cul-de-sac (160'.)

**Treyburn Point – Phase I**

- 1) **Treyburn Point Drive** – from the centerline of Vintage Hill Parkway east thru the cul-de-sac (1,293') and
- 2) **Lakeside Lane** – from the centerline of Treyburn Point Drive north thru the cul-de-sac (832') and
- 3) **Vintage Hill Parkway** – from the centerline of Snow Hill Drive west to the end of construction @ STA 123+60 (2,360'.)



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**Chadsworth**

- 1) **Forest Creek Drive** – from the centerline Barbee Road east then south to the existing Forest Creek Drive (658’.)

**Settlers Mill**

- 1) **Settlers Mill Lane** – from the west ditch line of Grandale Road west around the circle to Settlers Mill Lane (1,141’.)

**SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING PETITIONED IMPROVEMENTS - SEWER MAIN AND SEWER OUTFALL ON ALMAN DRIVE - SEWER MAIN ON HILLSBOROUGH ROAD (U.S. HWY 70 WEST)**

**MOTION** by Council Member Stith seconded by Council Member Clement to accept a Certificate of Sufficiency from the Manager of Engineering and Stormwater for the following petitions; and

To adopt a resolution setting a public hearing for December 18, 2006, to consider ordering the following improvements was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

Sewer Main and Sewer Outfall on Alman Drive from Randolph Road East to the North Property Line of Tax Map 458-7-3 and Pickran Circle from Alman Drive to the End of the Cul-de-sac; and

Sewer Main on Hillsborough Road (U.S. Hwy 70 West) from Brenrose Circle to Gate Hill Road.

**SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH REA JUNCTION ROAD, LLC - JUNCTION ROAD PROPERTY**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a Water and Sewer Extension Agreement with Rea Junction Road, LLC to serve Junction Road Property was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: HOME CHDO GRANT AGREEMENT WITH REBUILD DURHAM, INC. FOR ACQUISITION OF FIVE (5) RESIDENTIAL UNITS TO REHABILITATE AND RENT TO LOW-MODERATE INCOME**

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**FAMILIES; AND HOME CHDO OPERATING GRANT IN THE  
AMOUNT OF \$24,000**

To authorize the expenditure of FY 06-07 HOME CHDO funds in an amount not to exceed \$24,000.00;

To authorize the expenditure of FY 06-07 HOME CHDO funds in an amount not to exceed \$138,000.00;

To authorize the City Manager to execute a Community Housing Development Organization (CHDO) Operating Grant Agreement with Rebuild Durham, Inc. in amount not to exceed \$24,000.00 funded from FY 06-07 HOME CHDO funds;

To authorize the City Manager to execute a Community Housing Development Organization (CHDO) Grant Agreement with Rebuild Durham, Inc. in an amount not to exceed \$138,000.00 funded from FY 06-07 HOME CHDO funds; and

To authorize the City Manager to modify the agreements and other related documents before execution, provided that the modifications do not increase the dollar amount of the agreements and do not lessen the obligations of the developer.

**Note: At the request of the City Manager, this item was referred back to the  
administration – Community Development Department.**

**SUBJECT: SUB-RECIPIENT AGREEMENT WITH SELF-HELP COMMUNITY  
DEVELOPMENT CORPORATION FOR THE ACQUISITION OF FIVE  
(5) VACANT BUILDING LOTS ON CHAPEL HILL ROAD AND  
WHITCOMB STREET**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute a sub-recipient agreement with Self-Help CDC in the amount of \$168,000.00 to acquire five vacant properties located along Chapel Hill Road and Whitcomb Street;

To expend \$168,000.00 in FY 06-07 CDBG Funds; and

To authorize the City Manager to modify the agreement and other related documents before execution provided that the modifications do not increase the dollar amount of the agreement and do no lessen the obligations of the contractor was approved at 7:28 p.m. by the following vote:  
Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: NEIGHBORHOOD REVITALIZATION FUND CONTRACT WITH DUKE  
DURHAM NEIGHBORHOOD PARTNERSHIP – CONCEPTUAL**

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**STREETSCAPE IMPROVEMENT PLAN FOR WEST CHAPEL STREET  
BETWEEN SOUTH BUCHANAN STREET AND MAPLE STREET**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute a contract with Duke Durham Neighborhood Partnership in the amount of \$15,107.00 for the purpose of developing through community involvement, conceptual streetscape improvement plan for West Chapel Street between South Buchanan Street and Maple Street; and

To authorize the City Manager to make modifications to the contract so long as the modifications do not increase the dollar amount or decrease the scope of services provided to the City was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT TO THE CITY OF DURHAM EMPLOYMENT AND  
TRAINING 2006-2008 GRANT PROJECT ORDINANCE #13316 – STATE  
OF NORTH CAROLINA**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to accept the City of Durham North Carolina and the State of North Carolina 'Employment and Training' Grant by executing the grant documents; and

To adopt the City of Durham North Carolina and the State of North Carolina "Employment and Training" Grant Project Ordinance FY 2006-2008, superseding Grant Project Ordinance #13316 for the amount of \$1,926,431.00 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13343**

**SUBJECT: PROPOSED ADVANCED ACQUISITION FOR THE FUTURE  
EXPANSION OF LAKE MICHIE – PROPERTY OF ANNIE MAE ELLIS**

**MOTION** by Council Member Stith seconded by Council Member Clement to approve the acquisition in fee simple absolute of unimproved land from Annie Mae Ellis, identified as PIN # 0848-04-81-2849 (±13.881 acres) and PIN # 0848-04-82-3777 (±17.527 acres) for \$10,500.00 per acre for a total purchase price of \$329,784.00 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: CUSTODIAL SERVICES CONTRACT AT DURHAM POLICE  
DEPARTMENT HEADQUARTERS - MOTHER AND DAUGHTER  
CLEANING**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to enter into a contract with Mother and Daughter Cleaning, in the amount of \$138,000.00 for two years, with a project contingency of \$13,800.00, for a total allocation of \$151,800.00;

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement approved by City Council; and

To authorize the City Manager to execute contract extensions for an additional two years provided all contract requirements have been met prior to allowing an extension was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: AMENDMENT OF SECTION 8.5-27(A) OF THE FAIR HOUSING  
ORDINANCE**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt an Ordinance Amending Section 8.5-27(a) of the City of Durham Fair Housing Ordinance to allow fair housing enforcement organizations to file complaints of housing discrimination with the Human Relations Commission was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13350**

**SUBJECT: GRANT AWARD FOR PROJECT M.O.R.E. – A GANG PREVENTION  
AND INTERVENTION INITIATIVE FOR TARGET AREAS IN THE  
NORTH EAST CENTRAL AND SOUTH WEST CENTRAL DURHAM**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City to accept the Durham County Juvenile Crime Prevention Council Grant by executing the grant documents; and

To adopt the Durham County Juvenile Crime Prevention Council Grant Project Ordinance in the amount of \$30,755.00 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**Ordinance #13344**

**SUBJECT: CONTRACT FOR THE PROVISION OF SUPPLEMENTAL POLICE SERVICES BETWEEN THE DURHAM HOUSING AUTHORITY AND THE CITY OF DURHAM**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to execute a contract between the Durham Housing Authority and the City of Durham for the provision of supplemental police services in the amount of \$200,000.00; and

To authorize the City Manager to modify the contract before execution, provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: FY 2006 GANG RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM GRANT AWARD**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to accept the 2006 Gang Resistance Education and Training (G.R.E.A.T.) Grant by executing the grant documents;

To adopt the 2006 Gang Resistance Education and Training Program grant project ordinance in the amount of \$86,189.00; and

To authorize the Police Department to use Federal Asset Forfeiture Funds in the amount not to exceed \$7,835.00 to provide the required matching funds for the FY 2006 G.R.E.A.T. grant project was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13345**

**SUBJECT: VEHICLES FOR DURHAM COUNTY EMERGENCY MEDICAL SERVICES**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the transfer of two vehicles designated for sale from the City of Durham to the Durham County Emergency Medical Services to be used by paramedics that work with the Police Department's Selective Enforcement Team was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
WAYFINDING SIGN GRANT PROJECT ORDINANCE**

**MOTION** by Council Member Stith seconded by Council Member Clement to adopt the City of Durham North Carolina Department of Transportation Downtown Wayfinding Signage Grant Project Ordinance in the amount of \$46,000.00 was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13346**

**SUBJECT: EPLUS GROUP, INC. END OF LEASE OPTIONS FOR COMPUTER  
LEASE AGREEMENT NCM121-107 AND 108 (EXCLUDING MOBILE  
DATA COMPUTERS FOR THE POLICE DEPARTMENT)**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to amend the ePlus Group, Inc. Municipal True Lease Master Agreement, extending all assets (excluding the Mobile Data Computers for the Police Department) in Schedule NCM121-107 & 108 for a period of 12 months in the amount of \$62,829.76, and an additional \$15,707.44 for the end of term transition fee; and

To authorize the City Manager to modify the amendment before execution provided that modifications do not increase the dollar amount and the modifications are consistent with the general intent of the existing version of the amendment was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: COMPUTER LEASE AGREEMENT AMENDMENT FOR POLICE  
DEPARTMENT – EPLUS GROUP, INC.**

**MOTION** by Council Member Stith seconded by Council Member Clement to authorize the City Manager to amend the master lease agreement with ePlus Group, Inc. in the amount of \$52,728.36 annually for three (3) years or a total of \$171,367.17 to lease 93 Mobile Data Computers for the Police Department for a period of 36 months [The total amount includes an end of term cost of \$13,182.09 to be paid in the third year]; and

To authorize the City Manager to modify the amendment before execution provided that modifications do not increase the dollar amount and the modifications are consistent with the general intent of the existing version of the amendment was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

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**SUBJECT: NORTH GARAGE PARKING LEASE AGREEMENTS - LUCKY STRIKE  
- DUKE CORPORATE EDUCATION**

**MOTION** by Council Member Stith seconded by Council Member Clement to rescind the resolution that authorizes the City Manager to advertise for upset bids in accordance with G.S. 160A-269 for the lease of 30 parking garage spaces and provides that if no upset bids are received, the City Manager may accept the offer from Lucky Strike to lease 30 parking spaces for ten years with an option to renew for ten years at the rate established by City Council, which is currently \$45 per month per parking space;

To adopt a resolution that authorizes the City Manager to advertise for upset bids in accordance with G.S. 160A-269 for the lease of 30 parking garage spaces and provides that if no upset bids are received, the City Manager may accept the offer from Duke Corporate Education to lease 30 parking spaces for ten years with an option to renew for ten years at the rate established by City Council, which is currently \$45 per month per parking space; and

To authorize the City Manager to execute the Lease Agreement and make changes to the agreements prior to execution provided such changes do not differ from the intent of the Agenda Memo was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9418**

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENT**

To appoint a citizen to fill one (1) vacancy on the Human Relations Commission for a Minority Female with the term to expire on June 30, 2007.

Crystal Hayes, of 4800 University Drive, urged Council to vote for her to serve as a member of the Human Relations Commission.

**Note: Further discussion was held on this item later in the meeting.**

**SUBJECT: DURHAM ATHLETIC PARK PREFERRED DEVELOPER  
DESIGNATION - STRUEVER BROTHERS ECCLES & ROUSE (SBER)**

Assistant City Manager for Economic and Workforce Development Alan DeLisle noted three amendments have been made to the designation document and highlighted the one change in the memo provided to Council -- #1 under Issues and Analysis the seconded sentence was added to that paragraph.

**December 4, 2006**

Mayor Pro Tempore Cole-McFadden raised a concern regarding the lack of youth input.

Alan DeLisle noted staff will reference in the document that they will meet with the Youth Council to receive their input and views about the project.

Council Member Stith made comments on the change in the memo—Issues and Analysis Item #1.

Council Member Clement asked the representative from Struever Brothers to make a commitment to the African American community that African Americans will have an opportunity to take advantage of the work opportunities by this company.

A representative from Struever Brothers Eccles & Rouse noted the company is committed to doing this, made comments on their record and noted they will work with the community and train those people who need training to do the jobs that they will create with this project and other projects.

Mayor Pro Tempore Cole-McFadden thanked Struever Brothers for their substantial contribution to the Mayor's Summer Youth program.

Assistant City Manager for Economic and Workforce Development Alan DeLisle made comments on the involvement with the property owners.

Council Member Stith expressed concern with the scope of work.

Assistant City Manager for Economic and Workforce Development Alan DeLisle outlined the purpose of this item.

Mayor Bell made comments on the interests in how this community develops, made comments on minority participation, work history/reputation of Struever Brothers Eccles & Rouse and noted dollars spent on DAP will come from the bond referendum.

Bill Kalkhof, representing Downtown Durham, made comments in support of this item.

**MOTION** by Council Member Woodard seconded by Council Member Catotti to designate Struever Brothers Eccles & Rouse (SBER) the exclusive developer of the DAP for an exclusive designation period of 6 months, with a possible three month extension;

To authorize the City Manager to write and execute a preconstruction services agreement with Struever Brothers Eccles & Rouse in an amount not to exceed \$75,000.00, provided that it is consistent with the description in the Developer Designation Agreement;

To establish a project contingency in the amount of \$10,000.00; and

To authorize the City Manager to negotiate and execute changes to the preconstruction planning services agreement provided the total project cost does not exceed the applicable project ordinance was approved at 7:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro



**December 4, 2006**

Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard.  
Noes: None. Absent: None.

**SUBJECT: SECOND AMENDMENT TO THE G.H. WILLIAMS COLLABORATIVE,  
PA - AGREEMENT FOR PRE-PLANNING DESIGN SERVICES FOR  
WALLTOWN PARK RECREATION CENTER**

To adopt a resolution exempting the Walltown Recreation Center and Park Upgrade Project from G.S. 143-64.31;

To authorize the City Manager to execute the Second Amendment to the G. H. Williams Collaborative, PA agreement for Pre-Planning Design Services for Walltown Park Recreation Center in the amount of \$678,000.00 so that the total contract amount will not exceed \$880,842.00;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City;

To increase the project contingency to \$67,800.00; and

To authorize the City Manager to negotiate and execute change orders on the Walltown Recreation Center and Park Upgrade Project provided the total project cost does not exceed the applicable project ordinance.

Council Member Clement disclosed that George Williams is his brother-in-law.

City Attorney Blinder noted as long as Council Member Clement receives no financial benefit from the family relationship, the proper course of action is the disclosure and he would still be expected to vote on this matter.

Council Member Clement noted he will not receive anything from Mr. Williams.

In response to questions raised by Mayor Bell, General Services Manager Mark Greenspan noted this item is a recommendation that would provide the architectural/engineering designs to construct this project. If no action is taken on this item tonight, staff would be unable to move this project into construction. He stated this amendment represents the remaining 70 percent of work including the construction and administration phase which takes place during the construction phase of the project. The only additional features included were based on the last discussion with Council to accelerate the design of project. In keeping with that request to accelerate design of project, Mr. Greenspan noted Mr. Williams partnered with Phil Szostak to provide additional consulting resources and stated the program design has not changed, but what has changed is the need to finish the design of the program and move it into construction.

**December 4, 2006**

General Services Manager Mark Greenspan noted the design costs and construction costs today are within the program budget that was set in the 2005 General Obligation Bond. Mr. Greenspan reported the adopted schedule reflects completion of project in the first quarter of 2010. If this amendment is approved it would reduce the proposed schedule and the revised schedule will complete the project in the second quarter of 2009 resulting in a savings between six to nine months. He informed Council that the budget has not changed.

Wilma Holmes, of 1210 W. Club Boulevard, spoke in support of this item moving forward and noted the residents have been very patient and need the Walltown Recreation Center now.

Ernestine Hooker, of 1006 Onslow Street, urged Council to maintain Mr. Williams as the architect, proceed and find some money for a swimming pool at the Center.

Audrey Mitchell, of 918 Onslow Street, noted the Walltown community is in agreement and support the recommendation by General Services to maintain G. H. Williams Collaborative, PA for this project which will move the project forward and not prolong it.

Rev. Robert Daniels, of 917 Onslow Street, noted he is in support of additional funding for the Walltown Recreation Center.

Susan Shaw, of 2205 Cranford Road, noted as Chair of CPAC, she was present to offer the service of the Capital Program Advisory Committee. She noted this project was not given a red flag and made a suggestion that there is an upcoming meeting in two weeks and the Committee could provide the necessary scrutiny into the budget of the project.

General Services Manager Mark Greenspan made comments on the process for projects.

Council Member Stith raised a concern that the contract extension is not being competed for.

Council held discussion on the project budget.

General Services Director Mark Greenspan noted the price for this project is \$260 per square foot.

Council Member Brown raised a concern regarding the cost for this project--\$509 a square foot. He made comments on the June 4, 2003 Feasibility Study from the contractor, George Williams, who outlined that a building could be constructed on this site [40,000 square foot building] that included a swimming pool for around \$4 million. He noted he could not support an inflated project for this or any community. There has to be accountability and creditability involved in this process. He made a recommendation that this project be sent to the Capital Program Advisory Committee [CPAC] on December 18, 2006 for their analysis.

Council held discussion on the difference between the numbers, site costs, re-bidding, maintenance of existing center and accelerated schedule.

**December 4, 2006**

General Services Manager Mark Greenspan noted staff is looking at the cost of construction only. He outlined in the project budget a number of factors are included—contingency, architectural design, permits, fees and Council Member Brown is citing the cost per square foot for the total project budget. He explained the Walltown Park Recreation Center Budget—design costs and soft costs.

George Williams, of G. H. Williams Collaborative, PA, outlined what is being done with the existing facility. He noted the existing facility is being gutted and they are using the exterior walls, raising the roof of the existing facility two feet which is a major rehab on the existing facility which is more expensive than new construction. He noted they will be redoing the interior with new restrooms, new HVAC, and electrical. Also, he addressed what Szostak will be doing on this project and noted other consultants will be involved in this project.

City/County Planning Director Frank Duke made comments on the site plan process. He noted if there are any revisions required to the site plan, they would not be able to maintain the schedule.

Council Member Catotti noted she supports the project, but would be offering the following amendments to motion #2: To direct the City Manager to include in the Second Amendment to the agreement with G. H. Williams Collaborative, PA (“Architect”) provisions for the following: 1) That the architect shall present to the City Manager each proposed sub-consultant to be used and sub-consultant scope of work, with both the sub-consultant and scope of work subject to the approval of the City Manager; and 2) That the architect shall present to the City Manager a time schedule for performance of the work, with milestone dates of completion of phases of the work, with the milestone dates to be subject to the City Manager’s approval and incorporated into the agreement and for the agreement to provide for a reduction in fee to the architect if any of the milestone dates are not met.

Council held discussion on project costs, site work, existing facility and impact of delay.

George Williams discussed the site costs and work that will be completed for this project. He noted there was a ground rule that this building not be torn down.

To address the delay impact, General Services Manager Mark Greenspan expressed concern about the risk of cost escalation, contractor coverage, and delay in the following: replacement of architectural firm, insurance and rework for an additional cost.

Council Member Woodard spoke in support of language amendment presented by Council Member Catotti.

Mayor Bell made comments on the impact of a delay and spoke in support of amendment by Council Member Catotti.

George Williams, of G. H. Williams Collaborative, PA, noted he was fine with amendment.

**December 4, 2006**

A motion was made by Council Member Catotti seconded by Council Member Stith to adopt a resolution exempting the Walltown Recreation Center and Park Upgrade Project from G.S. 143-64.31;

To authorize the City Manager to execute the Second Amendment to the G. H. Williams Collaborative, PA agreement for Pre-Planning Design Services for Walltown Park Recreation Center in the amount of \$678,000.00 so that the total contract amount will not exceed \$880,842.00;

To direct the City Manager to include in the Second Amendment to the agreement with G. H. Williams Collaborative, PA (“Architect”) provisions for the following: 1) That the architect shall present to the City Manager each proposed sub-consultant to be used and sub-consultant scope of work, with both the sub-consultant and scope of work subject to the approval of the City Manager; and 2) That the architect shall present to the City Manager a time schedule for performance of the work, with milestone dates of completion of phases of the work, with the milestone dates to be subject to the City Manager’s approval and incorporated into the agreement and for the agreement to provide for a reduction in fee to the architect if any of the milestone dates are not met.

A substitute motion was made by Council Member Brown to refer this item to the Capital Program Advisory Committee and to receive a report at the January 4, 2007 Work Session. Motion dies for a lack of a second.

**MOTION** by Council Member Catotti seconded by Council Member Stith to adopt a resolution exempting the Walltown Recreation Center and Park Upgrade Project from G.S. 143-64.31;

To authorize the City Manager to execute the Second Amendment to the G. H. Williams Collaborative, PA agreement for Pre-Planning Design Services for Walltown Park Recreation Center in the amount of \$678,000.00 so that the total contract amount will not exceed \$880,842.00;

To direct the City Manager to include in the Second Amendment to the agreement with G. H. Williams Collaborative, PA (“Architect”) provisions for the following: 1) That the architect shall present to the City Manager each proposed sub-consultant to be used and sub-consultant scope of work, with both the sub-consultant and scope of work subject to the approval of the City Manager; and 2) That the architect shall present to the City Manager a time schedule for performance of the work, with milestone dates of completion of phases of the work, with the milestone dates to be subject to the City Manager’s approval and incorporated into the agreement and for the agreement to provide for a reduction in fee to the architect if any of the milestone dates are not met was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Clement, Stith and Woodard. Noes: Council Member Brown. Absent: None.

**Resolution #9419**

**December 4, 2006**

**MOTION** by Council Member Catotti seconded by Council Member Stith to authorize the City Manager to make changes to the contract before executing it if the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City;

To increase the project contingency to \$67,800.00; and

To authorize the City Manager to negotiate and execute change orders on the Walltown Recreation Center and Park Upgrade Project provided the total project cost does not exceed the applicable project ordinance was approved at 9:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Clement, Stith and Woodard. Noes: Council Member Brown. Absent: None.

**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY DECEMBER 1, 2005 - TRIANGLE METRO PHASE 1 - FAYETTEVILLE ROAD ASSEMBLAGE - TRIANGLE METRO PHASE 2**

To receive citizens' comments concerning the following Voluntary Annexation Areas:

a. FY2007-06 Triangle Metro Phase 1

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area [Triangle Metro Phase 1] in accordance with N.C. General Statutes 160A-31; effective from and after December 31, 2006; and

To authorize the City Manager to pay the debt service of the Parkwood Volunteer Fire Department.

b. FY2006-11 Fayetteville Road Assemblage

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area [Fayetteville Road Assemblage] in accordance with N.C. General Statutes 160A-58; effective from and after December 31, 2006; and

To authorize the City Manager to enter into a half-base contract with the Parkwood Volunteer Fire Department.

c. FY2007-06 Triangle Metro Phase 2

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area [Triangle Metro Phase 2] in accordance with N.C. General Statutes 160A-31 effective from and after June 30, 2007; and

**December 4, 2006**

To authorize the City Manager to pay the debt service of the Parkwood Volunteer Fire Department.

Robin Bibby, of Budget and Management Services, stated the analysis for each property shows a net gain to the City under the current and requested zonings. She noted there is a rezoning request for Fayetteville Road Assemblage before the County Commissioners which has been continued to December 11, 2006; therefore, staff recommends that Council open the public hearing for Fayetteville Road Assemblage and continue it to the December 18, 2006 City Council Meeting.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. No one was present to speak on this item.

Mayor Bell noted staff's recommendation is to open and continued the public hearing to the December 18, 2006 City Council Meeting.

**MOTION** by Council Member Clement seconded by Council Member Woodard to continue the public hearing on this item to the December 18, 2006 City Council Meeting was approved at 9:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Note: Further discussion was held on this item later in the meeting.**

**SUBJECT: ZONING MAP CHANGE (Z06-24) – HERITAGE SQUARE – WOODLAKE AVENUE PARTNERS, LLC**

To receive citizens' comments on the zoning map change for Heritage Square (Z06-24);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z06-24 out of CC(D); DDO-3 and placing same in and establishing same as CG(D); DDO-2 and DDO-3; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

**December 4, 2006**

Staff Recommendation: Staff recommends approval, based on the consistency with the Comprehensive Plan and the information contained within the staff report.

Planning Commission Recommendation and Vote: Approval, 7-3 on October 10, 2006. The Planning Commission recommends approval based on finding that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report, comments received during the public hearing and additional committed elements proffered by the applicant at the meeting.

[The site is located at 401 E. Lakewood Avenue, south of NC 147, west of Fayetteville Street, east of South Roxboro Street. PINs 0821-16-94-6419, 8293]

City/County Planning Director Frank Duke briefed Council on the staff report. He noted there is a development plan associated with this request. He highlighted committed elements on page 3 of the staff report that include providing greater open space than is required by ordinance; installing street trees greater than ordinance minimum; providing enhance pedestrian space along Fayetteville Road through the provision of wider sidewalks; providing \$100,000 in escrow for tree planting, decorative lighting and/or sidewalk improvements within the public right-of-way along the Fayetteville Street corridor; providing sedimentation and erosion control measures greater than what is required by ordinance; utilizing commemorative features such as plaques, public art, and naming opportunities to celebrate the culture and history of the historic Hayti community by providing at least \$10,000 for such features; providing a donation of \$25,000 to Durham Public Schools; retaining a certified arborist prior to doing any site work in order to evaluate the health and potential for saving the existing trees along Lakewood Avenue; providing appropriate bus facilities at locations determined by DATA. He stated the applicant has proffered two additional committed elements to include capping total square footage proposed for the site at 800,000 square feet and to prepare, submit and abide by all improvements associated with the TIA which would be submitted by the applicant by the time of site plan approval. He noted there was an error on page 6 of the staff report dealing with traffic impacts. The correct amount of traffic that would be generated under the proposed designation is between 1,085 daily trips instead of 20,183 outlined in the staff report. He noted there is infrastructure capacity to service the development as proposed and the request is consistent with the Comprehensive Plan. He noted staff is recommending approval and the Planning Commission recommended approval.

Due to the number of speakers, Mayor Bell noted there will be no yielding of time.

Larry Hester expressed concern that there would be no yielding of time.

According to Council Rules of Procedures, City Attorney Blinder noted during a zoning hearing 15 minutes are allowed for the proponents and 15 minutes for the opponents.

Mayor Bell noted instead of the 15 minutes, he would be allowing 30 minutes for the proponents and opponents to speak on this item.

**December 4, 2006**

Mayor Bell opened the public hearing.

### **Proponents**

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this item. He noted this proposal could serve as an additional catalyst along with Phoenix Crossing and Phoenix Square which will help to conclude this long journey from segregation, urban renewal, human displacement and neglect. He urged Council to approve this request and to express support for this vision and development plan proposal.

George Stanziale, representing the applicant, gave a power point presentation on this item. He reported this is a mixed-use project that provides for residential, retail, office and recreation. He discussed the illustrative master plan, features of the plan; streetscape features; character intersection; and rooftop plaza. Mr. Stanziale stated the applicant is committed to doing open space, public space that is far in excess of the ordinance; providing monies/opportunities for a Committee that will help determine the commemorative opportunities; donating \$25,000 to Durham Public Schools; maximum 800,000 square feet and abiding by requirements of the Traffic Impact Analysis [TIA].

Ed Stewart, of UDI, CDC, made comments on the declining conditions of the Hayti area. He noted this project would improve the environment, office opportunities for existing and new businesses, and would enhance what is now in existence and what would come. Mr. Stewart stated he supports this project because it is critical to revitalizing Hayti.

Rosalind Fuse Hall, representing NCCU, noted North Carolina Central University supports this project which would be complementary to the continuing growth of NCCU. She noted this project will increase and meet many of the amenities and needs of the faculty, staff and students that work and attend NCCU.

Chuck Watts, representing North Carolina Mutual, noted he supports this project because it's historic, due to the character of project, and the process used by the developer to engage all organizations and institutions in the area.

Farad Ali, 510 Holloway Street, spoke in support of this item. He made comments on the memo of understanding concerning minority participation in the area of retail space/construction/equity and supports this project because it promotes responsible economic development.

John DeBerry, a resident of Fayetteville Street, spoke in favor of this zoning map change. He noted this project would be an improvement and a great opportunity for this community.

Betty Robinson Woods, of 4 Poinciana Drive, spoke in favor of this project. She noted it would be positive for Rolling Hills and the community as a whole. She stated something needs to be done in the Hayti Heritage area because it has served its time well and it is time for a change.

Victoria Peterson spoke in support of this item. She noted this is an opportunity to put a lot of young African American men to work on this project.



**December 4, 2006**

Rev. Carl Kenney made comments in support of this item. He noted this is a chance to make it better than it used to be.

### **Opponents**

Denise Hester, of 2526 Abercromby Drive/Fayetteville Street Planning Group, spoke in opposition to this zoning map change. She noted the Fayetteville Street Planning Group is mostly affected by this rezoning. She urged Council to deny this rezoning and maintain the current neighborhood friendly DD0-3/CC zoning. She noted the project is inconsistent with the DDO guidelines and traffic impacts indicated in the staff report. She noted the project would be massive at 800,000 square feet, and it could go higher than six stories. She stated without committed elements describing what is being built, this Council must assume the worst case and maximum impacts. She asked if Mr. Rothchild would commit to the pictures in the illustrative drawings exactly as they are as committed elements. Mrs. Hester noted if the applicant does not and Council approves this item, Mr. Rothchild could sell the property tomorrow to another developer who could build something entirely different than what is presented. She expressed concern that the driveway on Morehead has not been approved by NCDOT and without the driveway, Lakewood Avenue would handle all the traffic to the site. She requested an Environmental Impact Study on transportation impacts before the rezoning and noted the July 12, 2006 staff report called for TIA before the rezoning but that requirement is absent from the staff report and noted the level service E is not acceptable for Lakewood Avenue. She requested that these issues be assessed, raised concerns with the density, inappropriate uses that can be considered and urged Council to deny a rezoning proposal of this size.

Larry Hester, of 2526 Abercromby Drive/Fayetteville Street Planning Group, urged Council to deny this rezoning. He noted this project size is not neighborhood friendly and would create rapid increases in property taxes throughout the area. Also, he referenced comments made by Planning Commissioners Giles and Brine who voted against this rezoning. Mr. Hester raised a concern with the density and the developer's unwillingness to compromise. He stated the developer has refused to answer questions regarding parking and it would be reckless of this Council to knowingly approve this rezoning without parking being a committed element. He made comments regarding the Fayetteville Street Plan and noted any dollars that will be spent along the Fayetteville Street should go first to benefit the stakeholders and the people who have been in that corridor for 100 years and who have already presented a plan for the future.

Mozella McLaughlin, representing the Fayetteville Street Planning Group, spoke against this item. She asked Council to vote no on this rezoning because the neighborhood would not be able to handle the additional traffic from this development and it would create tremendous harm to the community.

Sterling Holt, of 209 Pekoe Street, spoke in opposition to this zoning map change. He urged Council to vote no because it is too big for this historical neighborhood.

**December 4, 2006**

Lillian Lennon, of 810 Fayetteville Street, spoke in opposition to this zoning map change. She urged Council to vote against this item because the size of this project would cause a rapid increase in land value and property taxes which will be passed on to small business owners.

Rev. Cornelius Battle, of 201 Yale Lane, noted he is not opposed to economic development, but development should be done in harmony with the existing businesses and the community. He urged Council to vote no because not enough information has come forth and the proposed project is too large which would have a devastating effect on traffic and would increase taxes. He noted a detailed analysis of what exactly is going to be build and what the comprehensive effect on the surrounding businesses and community should be thoroughly explained to create an atmosphere of good neighborly trust. He urged Council to vote no to allow more debate between the developer and the neighbors.

Beart Truitt-Braswell, of 2005 Otis Street, made comments on the disparities in the African American community, asked that everyone work together and urged Council to review the Fayetteville Street Plan draft.

Brenda Freeman, of 109 Nelson Street, spoke in opposition to this zoning map change. She urged Council to say no to massive density and this height scale project.

Heshima Pugh, of 2609 Fayetteville Street, asked Council to vote no on this rezoning project. She expressed density and traffic concerns and noted this proposed rezoning would impact the entire Fayetteville Street corridor, would have a tremendous impact on environment, traffic and taxes.

George Booth Smith, Sr., of 1817 Cecil Street, urged Council to vote against this item.

Aljeuron Williams, of 129 Masondale Avenue, spoke against this zoning map change. He expressed concerns regarding donations that the developer is offering, traffic impacts and the effect this project will have on businesses directly and indirectly.

## **Rebuttal**

Andrew Rothchild, representing Scientific Properties/developer, made comments on his relationship with the community. He discussed his telephone conversation he had with the Hesters regarding this project and the Fayetteville Street Plan. He commented on the seven community meetings and numerous individual meetings with other stakeholders, property owners, residents, businesses and institutions, etc. If this item is approved, Mr. Rothchild noted this is the beginning of a continued relationship with the community, and will not stop community forums, but will start moving ahead to build a brighter future.

Mayor Bell explained how property taxes/property values are determined.

Council Member Catotti noted the new committed element goes a long way in addressing traffic impacts, roadway and intersection capacity.

**December 4, 2006**

Wesley Parham, of the Transportation Department, noted the applicant has proffered a commitment to submit a Traffic Impact Analysis [TIA]. Also, he outlined what a TIA will accomplish.

City/County Planning Director Frank Duke addressed the building height provision in the UDO.

Mayor Bell asked the applicant to address the building height concern going beyond six stories.

Andrew Rothchild, the developer, stated he has no current plans to go above six stories.

City/County Planning Director Frank Duke noted the developer could commit to not seeking the additional height permitted by 8.5B of the Unified Development Ordinance.

City/County Planning Director Frank Duke noted the driveway connection onto Morehead Avenue will require specific approval by NCDOT and they have not determined whether they will approve this connection. He noted this project could be done without the connection which is shown on the development plan and the applicant would have the ability to install it if approved by NCDOT. He stated it is not critical to the project, but the applicant might consider it critical.

Andrew Rothchild, the developer, noted the entrance off of Morehead would be beneficial to the project, but not essential.

Mayor Bell asked the developer if they were seeking financial support from the City for parking decks and to address the value of project at total build out.

Andrew Rothchild, the developer, stated the value is \$130 million, value of property estimated at \$2 million and parking decks - \$20 - \$25 million. He stated the developer would own parking decks and commented on minority participation for this project.

Mayor Bell asked the developer what impact this proposed development would have on surrounding commercial properties—Hayti Heritage, Phoenix Square; and minority participation.

Andrew Rothchild, the developer, stated they have engaged with outside consultants to review retail markets and determined that there is a tremendous amount of retail spending and opportunities for complementary businesses to be incorporated. Relative to minority participation, he noted the N C Institute for Minority Economic Development has worked with his organization to structure a memo that will incorporate minority in all levels of the project—construction, jobs, businesses, tenants, retail, office space and investors.

Mayor Bell stated for all the public/private partners that the City is involved in, he's always been of the opinion that if public dollars are invested, they should be able to show some direct feedback from the private section that has been supported by those investments--that's true for the American Tobacco, true for Liggett and would be true for this project. He noted Council has to make that decision.

**December 4, 2006**

Andrew Rothchild, the developer, noted given the size and scope of this project, the level of investment and the current condition of the property and without a significant amount of public investment, the project as presented tonight, would not go forward.

Mayor Bell asked staff what position would Council be in if the rezoning was granted and the project does not go forward.

City/County Planning Director Frank Duke stated the zoning of the property would run with the property regardless of whether the particular project is able to go forward.

Mayor Bell asked staff does the tax value change if the zoning is changed.

City/County Planning Director Frank Duke noted he is not sure if the differences in zoning are significant enough to generate any significant change in the tax value based solely on the zoning unless someone does some additional work to provide some additional buildings on the site. He briefed Council on the square feet limitation under both the current and requested zoning.

Andrew Rothchild, the developer, noted the square feet is approximately 71,000 square feet.

City/County Planning Director Frank Duke replied is roughly 72,000 with the existing center, plus the out parcels.

Larry Hester noted this project with 800,000 square feet creates development pressure in the neighborhood. He expressed concern that the developer has not committed to certain things in writing, Lakewood Avenue being over capacity and expressed parking issues. He noted the community needs the TIA before this rezoning occurs and the developer is not committed to the site plan that can be changed tomorrow.

City/County Planning Director Frank Duke stated none of the roads serving this site are over capacity at this time.

Regarding the lack of committed elements raised by Larry Hester, Andrew Rothchild, the developer, noted there are committed elements (11).

For clarification, City/County Planning Director Frank Duke noted the design is committed because it's a requirement of the ordinance. He noted the design guidelines that have been submitted are reflected in the drawings and are binding among the project and would not be a committed element because it's an ordinance requirement. Mr. Duke reported the only two committed elements that were not a part of the staff report were presented during staff's presentation— cap on maximum square footage and including TIA as part of the site plan.

Council Member Clement asked the City Attorney who owns the parking decks once the public finances them.

City Attorney Blinder replied normally, it's the public.

**December 4, 2006**

Regarding public investment for a private project (parking), Andy Rothchild, the developer, noted nothing is structured at this point. He stated the project, as it is envisioned/described today and in the location that it is in, will not work economically without public participation.

City/County Planning Director Frank Duke briefed Council on the permitted uses under the current and proposed zoning.

Betty Robinson Woods, of 4 Poinciana Drive, made comments on the mismanagement of Rolling Hills, noted the residents of Rolling Hills are being adversely affected by the businesses due to traffic, trash and the fence. She noted Mr. Rothchild and the Hesters need to come together as a community for the upbuilding of the community in the area. She expressed concern about the reduction in tax value.

Denise Hester expressed concern that Mr. Rothchild's proposal does not have a commitment of uses. She noted the community does not have the comfort in knowing what is going in this area.

City/County Planning Director Frank Duke made comments on the Downtown Durham Overlay.

Mayor Bell closed the public hearing.

Andrew Rothchild noted he does not have plans to build a seventh story and if the developer entertains any uses that would add a seventh story, it would only be residential. He made comments on the site plan.

City/County Planning Director Frank Duke noted the committed element should read the applicant shall not seek any additional height provisions above six stories on any buildings or structures fronting on Fayetteville Street.

Andrew Rothchild, the developer, agreed to the committed element regarding the height provision noted by the Planning Director. He explained the timetable for this project: 18 to 24 months until construction begins and the construction period will be 18 -24 months.

Council Member Brown spoke in support of this item.

**MOTION** by Council Member Brown seconded by Council Member Clement to receive citizens' comments on the zoning map change for Heritage Square (Z06-24);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z06-24 out of CC(D); DDO-3 and placing same in and establishing same as CG(D); DDO-2 and DDO-3; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore

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Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13351**

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT I-85 MTC OVERLAY (TC06-02)**

To receive citizens' comments on the Unified Development Ordinance (UDO) Text Amendment – I-85 MTC Overlay (TC06-02); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish an I-85 MTC Overlay (TC06-02) incorporating revisions to Article 5 to establish a major transportation overlay for the I-85 corridor.

City/County Planning Director Frank Duke briefed Council on the text amendment which was initiated by the Joint City/County Planning Commission. He noted staff and the Planning Commission both recommended approval of this text amendment. Also, he reported that the Durham County Board of Commissioners approved the ordinance.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Woodard To receive citizens' comments on the Unified Development Ordinance (UDO) Text Amendment – I-85 MTC Overlay (TC06-02); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish an I-85 MTC Overlay (TC06-02) incorporating revisions to Article 5 to establish a major transportation overlay for the I-85 corridor was approved at 11:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13352**

**SUBJECT: ZONING MAP CHANGE (Z06-56) - I-85 MTC OVERLAY – CITY AND COUNTY OF DURHAM**

To receive citizens' comments on the zoning map change for the I-85 MTC Overlay (Z06-56);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by establishing the MTC Overlay on the described property in zoning map change Case Z06-56; and

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To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public's interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

**Staff Recommendation:** Staff recommends approval, based on the consistency with the Comprehensive Plan and the information contained within the staff report.

**Planning Commission Recommendation and Vote:** Approval, 11-0 on October 10, 2006. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

[The site includes all property located 1,250 feet (2,500 feet at intersections) on either side of the I-85 right-of-way, from Avondale Drive to the Granville County line.]

City/County Planning Director Frank Duke briefed Council on this staff report. He noted staff and the Planning Commission have recommended approval.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Catotti to receive citizens' comments on the zoning map change for the I-85 MTC Overlay (Z06-56);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by establishing the MTC Overlay on the described property in zoning map change Case Z06-56; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public's interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 11:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13353**

**December 4, 2006**

**SUBJECT: MAJOR SPECIAL USE PERMIT (M06-01) – NORTH CAROLINA  
CENTRAL UNIVERSITY PEARSON CAFETERIA EXPANSION –  
NORTH CAROLINA CENTRAL UNIVERSITY**

To conduct a quasi-judicial public hearing to consider a Major Special Use Permit for North Carolina Central University Pearson Cafeteria Expansion, a college/university use in the RU-5 zoning district; and

To adopt an order with conditions granting the Major Special Use Permit for North Carolina Central University Pearson Cafeteria Expansion.

City Clerk Gray swore in the following individuals: Phillip Powell, Sr., Zack Abegumri, Rosalind Fuse Hall, Michael Stock and Frank Duke.

Mayor Bell explained the proceedings for a major special use permit.

The Mayor asked Council to reveal any possible conflicts and to withdraw from this hearing if necessary. Also, Mayor Bell asked if any Council Member had been exposed to any evidence or information that may not come out at the hearing tonight.

Mayor Bell asked the attorney for the applicant and for opponents or a representative to identify themselves.

Mayor Bell opened the public hearing.

**Testimony from Staff**

Michael Stock noted all required notifications have been performed and affidavits are available from the case file. Also, he requested the staff report and all attachments and exhibits be entered as a part of the permanent record.

City Attorney Blinder asked if there were objections to the staff report. There were no objections and the staff report was admitted as evidence.

Michael Stock, of the City/County Planning Department, noted North Carolina Central University (NCCU) proposes an expansion and renovation of the existing Pearson Cafeteria facility. The existing cafeteria consisting of two buildings, along with the Old Senior Building, are situated on the 1.9 acre development site. The proposal will remove the Old Senior Building and the cafeteria extension, expanding the existing primary cafeteria building to a 57,567 square foot facility. He stated no additional parking facilities are proposed. The expansion of the cafeteria triggers the requirement that a university facility obtain a major special use permit within the RU-5 district. The site plan and parking determination related to this request was approved by the Development Review Board (DRB) on August 4 and the site plan with a lighting plan was recommended for approval on October 6, 2006, pending the approval of the major special use permit by the City Council.



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In addition, he stated as a reminder, Council must make findings of fact under Section 13.2.3 of the Durham Zoning Ordinance, that the proposed use is:

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity;
2. In conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Section of this Ordinance;
3. Will not adversely affect the health or safety of the public.

Council shall also give consideration to the review factors specified in section 13.2.4 as indicated in the staff report. Council may impose conditions on the permit request that it deems necessary to ensure that this project is compatible and in harmony with the surrounding neighborhood. Staff will provide a recommendation to the Council at the conclusion of testimony for this case.

Mayor Bell asked if there were questions for staff. There were no questions.

### **Testimony from the Applicant**

Rosalind Fuse Hall, representing the applicant, made comments on the major special use permit for NCCU Pearson Cafeteria expansion. She noted this project will not adversely affect the public and is in harmony with the surrounding neighborhood and will conform with the special requirements as required. She noted NCCU is the fastest growing campus in the UNC system currently—50% in the last five years for a total of 8,675 students. She stated this project will expand the existing cafeteria that was built in 1966 to accommodate 400 students and will expand to accommodate 1,200 students in a very modern facility. The renovation/expansion will costs \$11.5 million as a result of the 2000 capital bond project referendum approved by the citizens and the state of North Carolina. She noted demolition is scheduled to begin on the adjacent building [Old Senior] on January 15, 2007 and construction should be completed on or before March 2008.

Mayor Bell asked if there were questions for the applicant.

### **Staff's recommendation**

Michael Stock noted based upon the technical requirements of the Durham Zoning Ordinance and the testimony presented during the hearing, staff recommends approval subject to the following condition:

The project shall be completed in accordance with an approved site plan, including any additional corrections and verifications. He noted Council may approve the order to grant the use permit tonight if no additional conditions are placed upon the permit.

City Attorney Blinder asked if anyone was present to speak in opposition to this request.

City Clerk Gray swore in Anner Willis.

Anner Willis asked about the length of time before NCCU moves forward with this project.

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Rosalind Fuse Hall noted NCCU will start on this project January 15, 2007.

No one spoke in opposition to the major special use permit.

Mayor Bell asked if there were other questions. There were no additional questions.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Stith seconded by Council Member Catotti to conduct a quasi-judicial public hearing to consider a Major Special Use Permit for North Carolina Central University Pearson Cafeteria Expansion, a college/university use in the RU-5 zoning district; and

To adopt an order with conditions granting the Major Special Use Permit for North Carolina Central University Pearson Cafeteria Expansion was approved at 11:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13347**

**SUBJECT: MAJOR SITE PLAN – NORTH CAROLINA CENTRAL UNIVERSITY  
PEARSON CAFETERIA EXPANSION AND RENOVATION (D05-786)**

**MOTION** by Council Member Stith seconded by Council Member Woodard to approve a major site plan for “North Carolina Central University Pearson Cafeteria Expansion and Renovation,” submitted by Woolpert, Inc., on behalf of North Carolina Central University, for renovation and expansion of an existing 19,567 square foot building with an additional 38,000 square feet proposed, for a total of 57,567 square feet on a 1.9 acre portion on a 48.5 acre site zoned RU-5 -- the property is located at 1901 Fayetteville Street, on the south side of East Lawson Street, east of Fayetteville and Merrick Streets, and west of Lincoln Street, PIN 0830-05-09-5723—was approved at 11:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT –  
TEMPORARY USE PERMIT TIMEFRAMES (TC06-11)**

To receive citizens’ comments on the Unified Development Ordinance (UDO) Text Amendment – Temporary Use Timeframes (TC06-11); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish temporary use timeframes and regulate portable on-site storage units (TC06-11) incorporating revisions to Article 5 in the Unified Development Ordinance.

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City/County Planning Director Frank Duke briefed Council on the text amendment which establishes a timeframe for the duration of temporary uses recommended by the City Attorney's Office when they found that the old zoning ordinance was carried forward into the UDO did not include specific timeframes. He noted the Inspections Director utilized timeframes provided for in the impact fee ordinance to determine what a temporary use was and the ordinance also establishes portable on-site storage units on residential properties as a temporary use that would require a temporary use permit which was added as a result of neighborhoods rejecting to PODS being left in the front yard of neighborhoods for an extended period of time. He made comments on the notification to operators of the portable on-site storage units. He stated the Planning Commission, the Board of Commissioners and staff recommended approval.

**MOTION** by Council Member Stith seconded by Council Member Catotti to receive citizens' comments on the Unified Development Ordinance (UDO) Text Amendment – Temporary Use Timeframes (TC06-11); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish temporary use timeframes and regulate portable on-site storage units (TC06-11) incorporating revisions to Article 5 in the Unified Development Ordinance was approved at 11:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13354**

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT – MINIMUM LOT SIZES FOR NEW LOTS WITH ON-SITE WASTEWATER DISPOSAL SYSTEMS (TC06-10)**

To receive citizens' comments on the Unified Development Ordinance (UDO) Text Amendment – Minimum Lot Size for New Lot with On-Site Wastewater Disposal Systems (TC06-10); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Articles 4, 6 and 13 to establish one acre as the minimum size for new lots where septic tanks will be utilized.

City/County Planning Director Frank Duke briefed Council on the text amendment. He noted this item brings Durham's ordinance into conformity with state requirements for properties utilizing a septic tank system. He noted the Planning Commission, the Board of County Commissioners and staff recommended approval.

**MOTION** by Council Member Stith seconded by Council Member Catotti to receive citizens' comments on the Unified Development Ordinance (UDO) Text Amendment – Minimum Lot Size for New Lot with On-Site Wastewater Disposal Systems (TC06-10); and

**December 4, 2006**

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Articles 4, 6 and 13 to establish one acre as the minimum size for new lots where septic tanks will be utilized was approved at 11:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13355**

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: PROFESSIONAL SERVICES AGREEMENT AMENDMENT FOR  
DESIGN OF OVAL DRIVE PARK RENOVATION PROJECT - SUSAN  
HATCHELL LANDSCAPE ARCHITECTURE, PLLC**

**MOTION** by Council Member Clement seconded by Council Member Catotti to adopt a resolution exempting the Oval Drive Park Renovation Project from G.S. 143-64.31;

To authorize the City Manager to execute a contract amendment to the Renovation of Oval Drive Park Agreement with Susan Hatchell Landscape Architecture, PLLC in the amount of; \$18,750.00 so that the total contract amount will not exceed \$62,790.00;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the compensation to be paid by the City and do not decrease the goods and services to be provided to the City; and

To authorize the City Manager to negotiate and execute change orders on the Oval Drive Park Renovation Project provided the total project cost does not exceed the applicable project ordinance was approved at 11:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9416**

At this time during the meeting Council Member Brown requested an excused absence from the December 7, 2006 Work Session since he will be attending the National League of Cities Conference.

**MOTION** by Council Member Catotti seconded by Council Member Stith to excuse Mayor Pro Tempore Cole-McFadden and Council Member Brown from the December 7, 2006 Work Session [will be attending the NLC Conference] was approved at 11:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**December 4, 2006**

Council Member Stith requested that an item be added to December 7, 2006 Work Session agenda concerning the issue of excused absence. He expressed concern that he requested an excused absence for the last Work Session that was not granted.

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: RESOLUTION ON THE BILL OF RIGHTS DEFENSE**

Council Member Stith asked questions that were answered by Council Member Woodard concerning the relevance of this item—2<sup>nd</sup> part of the 4<sup>th</sup> paragraph and who is the Bill of Rights Defense Committee.

**MOTION** by Council Member Clement seconded by Council Member Catotti to adopt a Resolution on the Bill of Rights Defense was approved at 11:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Resolution #9417**

At this time during the meeting, discussion was held on the following item.

**SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY DECEMBER 1, 2005 - TRIANGLE METRO PHASE 1 - FAYETTEVILLE ROAD ASSEMBLAGE - TRIANGLE METRO PHASE 2 – PARKWOOD VOLUNTEER FIRE DEPARTMENT**

City Manager Baker asked Council to rescind vote taken on this item and approve a and c and continue the public hearing on b.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to rescind Council action taken on the following item was approved at 11:55 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

City Manager Baker asked Council to vote on Items a and c and continue b for one cycle.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

For clarification, City Attorney Blinder noted the manager's recommendation was to approve Items a and c and open and continue the public hearing on b until the next meeting.

**MOTION** by Council Member Council Member Catotti seconded by Council Member Woodard to receive citizens' comments concerning the following Voluntary Annexation Areas:

**December 4, 2006**

**a. FY2007-06 Triangle Metro Phase 1**

To adopt “An Ordinance Annexing to the City of Durham” the Voluntary Annexation Area [Triangle Metro Phase 1] in accordance with N.C. General Statutes 160A-31; effective from and after December 31, 2006; and

To authorize the City Manager to pay the debt service of the Parkwood Volunteer Fire Department was approved at 11:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13348**

**b. FY2006-11 Fayetteville Road Assemblage**

To adopt “An Ordinance Annexing to the City of Durham” the Voluntary Annexation Area [Fayetteville Road Assemblage] in accordance with N.C. General Statutes 160A-58; effective from and after December 31, 2006; and

To authorize the City Manager to enter into a half-base contract with the Parkwood Volunteer Fire Department.

**MOTION** by Council Member Catotti seconded by Council Member Woodard to continue the public hearing on Fayetteville Road Assemblage annexation petition to the December 18, 2006 City Council Meeting was approved at 11:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**c. FY2007-06 Triangle Metro Phase 2**

**MOTION** by Council Member Catotti seconded by Council Member Woodard to adopt “An Ordinance Annexing to the City of Durham” the Voluntary Annexation Area [Triangle Metro Phase 2] in accordance with N.C. General Statutes 160A-31 effective from and after June 30, 2007; and

To authorize the City Manager to pay the debt service of the Parkwood Volunteer Fire Department was approved at 11:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**Ordinance #13349**

Council Member Catotti requested the City Council Work Session be moved from Thursday, December 21, 2006 to Wednesday, December 20, 2006.

**December 4, 2006**

**MOTION** by Council Member Clement seconded by Council Member Catotti to add an item to the agenda was approved at 11:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**MOTION** by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to move the December 21, 2006 Work Session to Wednesday, December 20, 2006 at 1:00 p.m. was approved at 11:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Clement, Stith and Woodard. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: DURHAM AREA TRANSIT AUTHORITY - APPOINTMENT**

To appoint a citizen to fill one (1) vacancy for a Regular Member on the Durham Area Transit Authority with the term to expire on March 1, 2008.

City Clerk Gray announced that Robert A. Oalson was appointed by ballot to the Durham Area Transit Authority with five votes.

**SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENT**

To appoint a citizen to fill one (1) vacancy on the Human Relations Commission for a Minority Female with the term to expire on June 30, 2007.

City Clerk Gray announced that Leah Henderson was appointed by ballot to the Human Relations Commission with five votes.

There being no further business to come before the City Council, the meeting was adjourned at 11:59 p.m.

Linda Bratcher  
Deputy City Clerk

D. Ann Gray, CMC  
City Clerk